



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 1, 2005

The Council of the City of San Jose convened in Regular Session at 9:34 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of (1) Horta v. City of San José, (2) U.S. Glass v. S.J. Amoroso, et al., (3) City of San José v. American Airlines, (4) City of San José v. American GI Forum, (5) Great Oaks Water Company v. City of San José, (6) Pacific Gas & Electric Company v. City of San José, (7) Equal Employment Opportunity Commission (on behalf of James Yu) v. City of San José, (8) Muscatell v. City of San José, (9) Williams v. City of San José, (10) Manufactured Home Communities, Inc. v. City of San José, (11) Mario Sanchez v. City of San José, (12) City of San José v. Housing Development Software, (13) City of San José v. JMP Golf Design Group, Inc., (14) Martinez v. City of San José, (15) City of San José, et al. v. County of Santa Clara, et al., (16) Preservation Action Council of San José v. City of San José, (17) Santa Teresa Citizen Action Group, et al. v. City of San José, (18) South Almaden Valley Rural Alliance, et al. v. City of San José, et al., (19) Bui, et al. v. City of San José, et al., (20) Bushell-McIntyre v. City of San José, et al., (21) Chesney v. City of San José, (22) City of San José and People of the State of California v. Alvarez, et al., (23) Cripe, et al. v. City of San José, (24) Doe v. Doe, (25) Dubray v. City of San José, (26) Fisher v. City of San José, (27) Garden City v. City of San José, (28) Sutter's Place v. City of San José, (29) Hells Angels, et al. v. City of San José, et al., (30) Miller v. City of San José, (31) An Vinh Nguyen v. City of San José, et al., (32) People of the State of California, ex rel. San José City Attorney v. VST, et al., (33) Piazza v. City of San José, (34) San José Medical Center v. City of San José, (35) Jorge Albert Sanchez v. City of San José, (36) Sharp, et al. v. City of San José, et al., (37) Kim Smith v. City of San José, (38) Tow Service, et al. v. City of San José, et al., (39) Wood v. Montalvo, et al., (40) City of San José v. Movassate, (41) Gresham v. City of San José, (42) Tanner v. City of San José, et al., (43) Kynco Garcia, a minor, et al. v. City of San José, (44) Sepehr v. City of San José, (45) Comcast Corporation v. City of San José, (46) Fong, De LaRossa, et al. v. City of San José, et al., (47) Operating Engineers, Local 3 v. City of San José, (48) Proposition 22 Legal Defense & Education Fund, et al. v. Gonzales, et al., (49) San José Mercury News v. City of San José, Manheim, (50) San José Mercury News v. City of San José.; (B) to confer with Legal Counsel regarding anticipated litigation (a) of six matters where there is significant exposure to litigation pursuant to subsection.

(C) confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Organization, (4) Confidential Employees Organization, (5) City Association of Management Personnel, (6) Association of Maintenance Supervisory Personnel, (7) Operating Engineers, Local 3, (8) International Brotherhood of Electrical Workers, (9) Association of Building and Mechanical and Electrical Inspectors, (10) Association of Engineers and Architects, (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:42 a.m. and reconvened at 1:41 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

INVOCATION (DISTRICT 3)

Lydia Chavez Medina delivered a prayer, entitled: "The Prayer of the Farm Worker's Struggle".

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

The Orders of the Day and the Amended Agenda were approved.

Mayor Gonzales introduced Audrey Hutchinson and Lucretia Murphy from the National League of Cities.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the City of San José as a Colon Cancer Free Zone. (LeZotte/Yeager)

Documents Filed: Memorandum from Council Member LeZotte, dated February 4, 2005, requesting the addition of the ceremonial item.

Action: Mayor Gonzales was joined at the podium by Council Member LeZotte and Council Member Yeager to present a proclamation to Gay Crawford and Dr. Richard Andronny declaring the City of San José as a Colon Cancer Free Zone.

1.2 Presentation of a commendation to Peter Giles for his 18 years of service as President and CEO of The Tech Museum of Innovation. (Cortese)

Action: This item was deferred.

CONSENT CALENDAR

2.1 Approval of Minutes.

Action: There were none.

2.2 (a) **ORD. NO. 27354 – Establishes a public right-of-way over a portion of Emma Prusch Memorial Park to accommodate the widening of King Road in accordance with Charter Section 1702.**

Documents Filed: Proof of publication of title of Ordinance No. 27354 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27354 was adopted. (10-0).

(b) **ORD. NO. 27357 – Amends Section 4.12.149 of Chapter 4.12 of Title 4 of the San José Municipal Code to revise the process for purchases of brand name or proprietary equipment, materials and supplies.**

Documents Filed: Proof of publication of title of Ordinance No. 27357 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27357 was adopted. (10-0).

(c) **ORD. NO. 27360 – Prezones from County to R-1-8 Residential Zoning District and from County to CP Pedestrian Commercial Zoning District. C04-038**

Documents Filed: Proof of publication of title of Ordinance No. 27360 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27360 was adopted. (10-0).

(d) **ORD. NO. 27361 – Rezones certain real property situated on the west end of Perigrino Way, approximately 150 feet northerly of Dry Creek Road to R-1-5 Single-Family Residence Zoning District. C04-084**

Documents Filed: Proof of publication of title of Ordinance No. 27361 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27361 was adopted. (10-0).

- 2.2 (e) **ORD. NO. 27362 – Rezones certain real property situated on the west side of Monterey Road, 250 feet southerly of Lewis Road (2955 Monterey Road) to CN Commercial Neighborhood Zoning District. C04-097**

Documents Filed: Proof of publication of title of Ordinance No. 27362 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27362 was adopted. (10-0).

- (f) **ORD. NO. 27363 – Rezones certain real property situated on the east side of Bush Street, approximately 190 feet south of the Alameda (200 Bush Street) to A(PD) Planned Development Zoning District. PDC04-096**

Documents Filed: Proof of publication of title of Ordinance No. 27363 executed on February 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27363 was adopted. (10-0).

- 2.3 **Approval of the City Auditor Gerald Silva's travel calendar through June 30, 2005, at a total cost to the City of \$2,353. (City Auditor)**
(Deferred from 2/1/05 – Item 2.5 and 2/15/05 – Item 2.4)

Documents Filed: None.

Action: This item was deferred to 3/15/05.

- 2.4 **Approval of the appointments to the Project Diversity Screening Committee. (City Clerk)**
(Rules Committee Referral 2/2/05)
(Deferred from 2/15/05 – Item 2.5)

Documents Filed: Memorandum from Mayor Gonzales, dated February 25, 2005, recommending appointments.

Action: The appointments were approved. (10-0).

- 2.5 **Approval of an Assignment, Assumption and Novation Agreement between the City of San José, Service America Corporation (Centerplate), and Team San José (TSJ) for catering services at the Convention Center and Cultural Facilities. CEQA: Not a Project. (City Manager's Office)**
(Deferred from 1/11/05 – Item 2.4 and 2/15/05 – Item 2.6)

Documents Filed: Memorandum from Deputy City Manager Kay Winer, dated February 10, 2005, recommending approval of an Assignment, Assumption and Novation Agreement.

2.5 (Cont'd.)

Public Comments: David Bevins expressed concerns about the contract extension and reiterated displeasure with the Council's decision to select Team San José to operate the Convention Center.

Action: The agreement between the City of San José, Service America Corporation and Team San José were approved. (10-0).

2.6 **Adoption of a resolution authorizing the City Manager to negotiate and execute a lease of airport premises with Menzies Aviation Group Inc. for office space in Terminal C from March 1, 2005 to February 28, 2010, with estimated annual revenue to the City of \$25,564. CEQA: Resolution Nos. 67380 and 71451, PP05-031. (Airport)**

Documents Filed: Memorandum from Interim Director of Aviation Frank Kirkbride, dated February 9, 2005, recommending approval of a lease of airport.

Action: Resolution No. 72546, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Lease with Menzies Aviation Group, Inc., for Office Space in Terminal C from March 1, 2005 to February 28, 2010 with Estimated Annual Revenue of \$25,564.00", was adopted. (10-0).

2.7 **Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period December 16, 2004 through January 15, 2005.* (City Auditor)**

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated February 10, 2005, requesting the acceptance for the report be agendized.

Action: The Report was accepted. (10-0).

2.8 **Adoption of a resolution amending the Regulations and Procedures for the San José Elections Commission Investigations and Hearings, as it relates to the qualifications and hiring of an evaluator/investigator, form and filing of complaints, statute of limitations and other technical amendments, as recommended by the Elections Commission and the Blue Ribbon Task Force. (City Clerk/City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated February 23, 2005, recommending adoption of the resolution.

Discussion: The item was pulled for public comment. City Attorney Rick Doyle responded to brief questions from the Vice Mayor about the scope of work for the Elections Commission Investigator. He noted more specifics will be included in the Request for Proposals.

Public Comments: William Garbett spoke in opposition to adopting the resolution.

2.8 (Cont'd.)

Action: Resolution No. 72547, entitled: “A Resolution of the Council of the City of San José Amending Regulations and Procedures for the San José Elections Commission Investigation and Hearings”, was adopted with further direction to staff to provide more specificity about the scope of work for the evaluator/investigator. (10-0).

2.9 Approval of an ordinance amending Section 11.36.230 of the San José Municipal Code to allow news vehicles to be exempt from certain provisions related to the stopping, standing, and parking of vehicles. CEQA: Not a Project. (City Manager’s Office)

Documents Filed: Memorandum from Public Outreach Manager Tom Manheim, dated February 14, 2005, recommending approval of an ordinance.

Action: Ordinance No. 27364, entitled: “An Ordinance of the City of San José Amending Section 11.36.230 of Chapter 11.36 of Title 11 of the San José Municipal Code to Allow News Vehicles to Be Exempt from Certain Provisions Related to the Stopping, Standing, and Parking of Vehicles in Chapter 11.36”, was passed for publication. (10-0).

2.10 Approval of fiscal actions for Redevelopment Development Agency Capital Projects:

- (a) Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) Increase the appropriation to the Department of Public Works for the Greater Gardner Street Reconstruction Project (PSM 346#1) by \$172,000.**
 - (2) Establish an appropriation to the Library Department for the San José Child Care Facility Development Project (PSM 400), in the amount of \$617,000.**
 - (3) Establish an appropriation to the Department of Transportation for the K.O.N.A Traffic Calming Project (PSM 398), in the amount of \$25,000.**
 - (4) Establish an appropriation to the Department of Transportation for the West Evergreen Pedestrian Improvements Project (PSM 399), in the amount of \$70,000.**
 - (5) Increase the estimate for Earned Revenue by \$884,000.**
- (b) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements as follows:**
 - (1) The San José Child Care Facility Development Project, as more specifically described in the memorandum from the Redevelopment Agency, dated February 23, 2005.**
 - (2) The K.O.N.A. Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency, dated January 11, 2005.**

2.10 Approval of fiscal actions for Redevelopment Development Agency Capital Projects: (Cont'd.)

(b) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements as follows:

(3) The West Evergreen Pedestrian Improvement Project, as more specifically described in the memorandum from the Redevelopment Agency, dated January 11, 2005.

CEQA: Greater Gardner Street Reconstruction: Not a Project; San José Child Care Facility Development: Not a Project; K.O.N.A. Traffic Calming: Not a Project; West Evergreen Pedestrian Improvements: Not a Project. Council Districts 3, 6, 7 and 8. SNI: Greater Gardner, K.O.N.A, and West Evergreen. (City Manager's Office)

Documents Filed: (1) Supplemental memorandum from Budget Director Larry D. Lisenbee, dated February 24, 2005, amending the findings for the San José Child Care Facility Development project. (2) Memorandum from Budget Director Larry D. Lisenbee, dated February 9, 2005, recommending adoption of the appropriation ordinance and funding sources resolution.

Discussion: This item was pulled for brief Council questions to staff.

Action: Ordinance No. 27365, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Certain Public Improvements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72548, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", Resolution No. 72549, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Greater Gardner Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", Resolution No. 72550, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the K.O.N.A. Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", Resolution No. 72551, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the West Evergreen Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (10-0).

2.11 Item was pulled for Council discussion and heard with Item 9.1.

- 2.12 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #10 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memorandum from Interim Director of General Services Jim McBride, dated February 9, 2005, recommending approval of the award.

Action: The award of open purchase was approved. (10-0).

- 2.13 Approval of the first amendment to the agreement with Steven T. Frederick Development Company to continue service as a consultant for Smart Start San José through June 30, 2006 and increase compensation by \$32,000, for a total agreement amount not to exceed \$127,000. CEQA: Not a Project. (Library)**

Documents Filed: Memorandum from Library Director Jane Light, dated February 16, 2005, recommending approval of the first amendment.

Action: The first amendment was approved. (10-0).

- 2.14 Adoption of a resolution authorizing the Director of Parks, Recreation and Neighborhood Services Department to negotiate and execute all grant agreements for the following grant programs:**

- (a) Community Development Block Grant (CDBG) funding amounts and projects approved as a part of the 2004-2005 Adopted Operating Budget; and**
 - (b) Healthy Neighborhoods Venture Fund (HNVF) funding amounts and projects approved as a part of the 2004-2005 Adopted Operating Budget.**
- CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Replacement memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated February 18, 2005, recommending adoption of the resolution.

Action: Resolution No. 72552, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute All Grant Agreements for the Following Grant Programs: (A) Community Development Block Grant Funding Amounts and Projects Approved as Part of the 2004-2005 Adopted Operating Budget and (B) Healthy Neighborhoods Venture Fund Funding Amounts and Projects Approved as Part of the 2004-2005 Adopted Operating Budget", was adopted. (10-0).

- 2.15 Approval of Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions with Ernest E. Pestana and Irene F. Pestana, in the amount of \$255,482 for:**
- (a) Fee title to a portion of 225 Oakland Road (APN: 237-01-006); and**
 - (b) A 12-month temporary construction easement on an adjoining portion of the property.**
- CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen, dated February 18, 2005, providing the correct address of the subject property. (2) Memorandum from Director of Public Works Katy Allen, dated February 9, 2005, recommending approval of Purchase and Sale Agreements and adoption of the resolution.

Action: Resolution No. 72553, entitled: "A Resolution of the Council of the City of San José Approving a Purchase and Sale Agreement with Ernest E. Pestana and Irene F. Pestana and Authorizing the Director of Public Works to Execute Certain Documents for the Purchase of Properties Pertaining to the Oakland Road Project", was adopted. (10-0).

- 2.16 Approval of a continuation agreement for the City of San José to continue providing surveying and map review services to the City of Campbell in an amount not to exceed \$225,000; the duration of this continuation agreement is retroactive for the period January 1, 2005 through December 31, 2006. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 9, 2005, recommending approval of the continuation agreement.

Action: The continuation agreement was approved. (10-0).

- 2.17 Adoption of a resolution:**
- (a) Authorizing the Director of Public Works to approve specifications that require installation of emergency standby generators and components manufactured by Power Generation in all essential service buildings constructed pursuant to the Neighborhood Security Bond Act of;** and
 - (b) Finding that designating the installation of emergency standby generators and components manufactured by Power Generation is for the purpose of matching other products already in use on other public improvements.**
- CEQA: Not a Project. (Public Works/General Services)**

Documents Filed: None.

Action: This item was deferred to March 15, 2005.

- 2.18 (a) (1) **Report on bids and award of contract for the Traffic Signal Installation at Martha Street and Seventh Street Project to the low bidder, Prism Engineering, Inc., in the amount of \$148,465, and approval of a contingency in the amount of \$14,800.**
- (2) **Adoption of the following appropriation ordinance and funding source resolution amendments in the Services for Redevelopment Capital Projects Fund (City-Side Redevelopment Fund):**
- (a) **Increase the appropriation to the Department of Public Works for the Traffic Signal at Seventh and Martha Streets Project (PSM 372#1) in the amount of \$187,265.**
- (b) **Increase the estimate for Earned Revenue by \$187,265.**
- CEQA: Exempt, PP04-330. Council District 3. SNI: Spartan/Keyes. (Public Works/Transportation/City Manager's Office)**
- (b) (1) **Report on bids and award of contract for the Traffic Signal Installation at Lightland Road and McLaughlin Avenue Project to the low bidder, Pacific Electric Co., in the amount of \$146,046, and approval of a contingency in the amount of \$16,104.**
- (2) **Adoption of a resolution approving the Traffic Signal Installation at Lightland Road and McLaughlin Avenue Project and incorporating the appropriate environmental mitigation measures into the project.**
- CEQA: Mitigated Negative Declaration, entitled: "Ramblewood Park Elementary School" adopted by the Franklin-McKinley School District under Resolution No. 2003-29, adopted on December 9, 2003. State Clearinghouse No: 2003102119. Council District 7. (Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Transportation James R. Helmer, and Budget Director Larry D. Lisenbee, dated February 18, 2005, recommending the report on bids and award and adoption of the appropriation ordinance and funding sources resolution amendments. (2) Memorandum from Director of Public Works Katy Allen and Director of Transportation James R. Helmer, dated February 18, 2005, recommending the report on bids, award of contract, and adoption of the resolution.

Action: The reports on bids and award of contracts were approved and Ordinance No. 27366, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Traffic Signal Installation at Seventh Street and Martha Street Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72554, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", Resolution No. 72555, entitled: "A Resolution of the City Council of the City of San José Approving the Traffic Signal Installation at Lightland Road and McLaughlin Avenue Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", were adopted. (10-0).

2.19 Approval of Council Member Williams's travel to Washington, D.C., March 6 - 8, 2005, to attend the American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Agency. (Williams)

Documents Filed: Memorandum from Council Member Williams, dated February 10, 2005, requesting authorization for Council Member Williams' travel.

Action: Council Member Williams' travel was approved. (10-0).

2.20 Adoption of a resolution to amend the Master Parking Rate Schedule to modify evening/weekend parking rates on non-event days at the Convention Center Parking Garage and to rename the current Downtown Retail Validation Program to the Downtown Parking Validation Program and include validations for nightclubs, bars and restaurants under the program, to reassign the authority to determine the event flat-rate fee for parking at the Convention Center Parking Garage to the Director of Transportation, and repeal Resolution No. 72389. CEQA: Not a Project. Council District 3. (Transportation) (Rules Committee referral 2/23/05)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated February 23, 2005, recommending adoption of the resolution.

Public Comments: Eric Sohn, Downtown Association, owner of South First Billiards, expressed concerns with the hours proposed for the Parking Rate Schedule and Elizabeth Monley, Downtown Parking Board, spoke in favor of the amendment.

Action: Resolution No. 72556, entitled: " A Resolution of the Council of the City of San José Adopting a Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities, to Amend the Master Parking Rate Schedule to Modify Evening/Weekend Parking Rates on Non-Event Days at the Convention Center Parking Garage and to Rename the Current Downtown Retail Validation Program and Include Validations for Nightclubs, Bars and Restaurants Under the Program, to Reassign the Authority to

Determine the Event Flat-Rate Fee for Parking at the Convention Center Parking Garage to the Director of Transportation, and to Repeal Resolution No. 72389, Effective March 1, 2005", was adopted and staff agreed to return to Council with a sub-area strategy during the budget process review of the Annual Parking Priorities Update and Parking Management Plans. (10-0).

2.21 Approval of a nomination to the San José Silicon Valley Workforce Network Board of Directors. (Mayor) (Rules Committee referral 2/23/05)

Documents Filed: Memorandum from Mayor Gonzales, dated February 17, 2005, recommending approval of the nomination to the San José Silicon Valley Workforce Investment Network Board of Directors.

2.21 (Cont'd.)

Action: The nomination to the San José Silicon Valley Workforce Network Board of Directors was approved. (10-0).

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – February 9, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee report of February 9, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 22, 2005 Council Agenda Meeting Cancelled.
 - (2) Add New Items to February 15, 2005 Amended Agenda
The Committee recommended six additions to the February 15, 2005 City Council agenda.
 - (3) List of Reports Outstanding. Attachment: Report from the City Manager's Office, dated February 8, 2005, listing twelve (12) staff reports outstanding for the February 15, 2005 Council Agenda.

The Committee noted and filed the City Manager's report.

- (c) Legislative Update
 - (1) State – There were none.
 - (2) Federal
Director of Intergovernmental Relations Betsy Shotwell advised the Committee that the Federal Legislative Report had been released. Chair Chavez requested that a preliminary report be brought back to the Rules Committee as soon as possible.
- (d) Meeting Schedules – There were none.
- (e) The Public Record. Attachment: Memorandum from the City Clerk, dated February 2, 2005, transmitting the items filed for the Public Record for the period of January 26 – February 2, 2005.

The Committee noted and filed the Public Record.

- (e) Appointments to Boards, Commissions and Committees.
There was no report.

- 3.2** (f) Rules Committee Reviews, Recommendations and Approvals
None.
- (g) Oral Communications
Bill Chew asked the Committee to start holding the Rules Committee meetings in Chambers, so that the meetings can be televised. Chair Chavez requested that the Administration evaluate the issue and report back to the Committee.
- (h) Adjournment
The meeting adjourned at 2:15 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee report and actions of February 9, 2005 were accepted. (10-0).

Report of the Rules Committee – February 16, 2005
Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee report of February 16, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
(1) Review March 1, 2005 Council Agenda
The Committee recommended approval of the March 1, 2005 City Council Agenda with five additions.
- (2) Add New Items to February 22, 2005 Amended Agenda
No Items. Meeting Cancelled.
- (3) List of Reports Outstanding
No Items. Meeting Cancelled.
- (c) Legislative Update
(1) State
There were none.
- (2) Federal
Director of Housing Leslye Corsiglia responded to questions about CDGB and other housing Program cuts. Staff will return with a memorandum in greater detail.
- (d) Meeting Schedules – There were none.
- (e) The Public Record – None filed.

3.2 (Cont'd.)

- (f) Appointments to Boards, Commissions and Committees. Attachment: Memoranda from City Clerk Lee Price, dated February 11, 2005, regarding Appointments to Airport Noise Advisory Committee; Memoranda from City Attorney Richard Doyle, dated February 8, 2005, regarding Airport Noise Advisory Committee Applicants, and from Vice Mayor Chavez and Council Member Yeager, dated February 15, 2005, regarding the Airport Noise Advisory Committee Appointments.
 - (1) Airport Noise Advisory Committee
The Committee recommended the appointment of Ricardo Lewis Giardino, Citizen Representative and Michael Dennis O'Kane, Business Representative.
- (g) Rules Committee Reviews, Recommendations and Approvals
There were none.
- (h) Oral Communications
Bill Chew asked the Committee to consider a way to provide candidates for elective office the opportunity to communicate with constituents via a public forum held in Council Chambers and to provide a web page for candidates.
- (i) Adjournment
The meeting adjourned at 2:18 p.m.

Documents Filed: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee Report and actions of February 16, 2005 were accepted. (10-0)

Report of the Rules Committee – February 23, 2005 (Partial) Vice Mayor Chavez, Chair

- (f) Appointments to Boards, Commissions and Committees. Attachment: Memorandum from Director of Employee Services Mark Danaj, dated February 16, 2005, requesting three appointments the Deferred Compensation Advisory Committee for four-year terms ending March 1, 2009.
 - (1) Deferred Compensation Advisory Committee Appointments
The Committee recommended the appointment Donald DeMers as the San José Police Officers Association employees representative; Mark Skeen as the San José Fire Fighters Association, Local 230 employee representative; and Pascal Robineau as the trade unions employee representative to terms ending March 1, 2009.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee Report and Actions of February 9, 16, and 23, 2005 were accepted.

3.3 Report of the Making Government Work Better Committee – February 17, 2005 Council Member Reed, Chair

Documents Filed: Making Government Work Better Report of February 17, 2005.

- (a) Status Report on Proposed Guidelines of the Request for Proposals Procedure. Attachment: Memorandum from Assistant to the City Manager Deanna J. Santana, Finance Director Scott P. Johnson, and Interim Director of General Services Jim McBride, dated February 9, 2005, recommending acceptance of the report.

The Committee accepted the Staff's report.

- (b) Follow-up Report on Fire Department Overtime and Relief Staffing. Attachment: Memorandum from Fire Chief Jeffrey L. Clet and Budget Director Larry D. Lisenbee, dated February 9, 2005, recommending acceptance of the report.

The Committee accepted the Staff's report and requested that Staff return in March with a follow-up report.

- (c) Quarterly Debt Report. Attachment: Memorandum from Finance Director Scott P. Johnson, dated February 9, 2005, providing a copy of the FY2004-2005 Second Quarter Debt Report.

The Committee accepted the staff's report.

- (d) Quarterly Investment Report. Attachments: (1) Memorandum from Finance Director Scott P. Johnson, dated February 9, 2005, recommending acceptance of the report. (2) Memorandum from Finance Director Scott P. Johnson, dated January 28, 2005, providing the Investment Report for the Quarter ended December 31, 2004.

The Committee accepted the staff's report.

- (e) Oral Petitions – None.

- (f) Adjournment
The meeting adjourned at 2:45 p.m.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, the Making Government Work Better Committee Report and Actions of February 17, 2005 were accepted. (10-0)

- 3.4 (a) Acceptance of the San José Arts Commission Ad Hoc Task Force Report on the New City Hall programming and exhibits; and**
(b) Authorization of the one time use of the FY 2004-05 Arts Venture Fund appropriation, in the amount of \$200,000, as seed money for activation of the New City Hall through an implementation plan to be developed by staff consistent with the Task Force Report.

CEQA: Resolution No. 68905, PP98-03-072. (Cultural Affairs)
(Deferred from 2/15/05 – Item 3.5)

Documents Filed: (1) Memorandum from Deputy Director of the Office of Cultural Affairs Jerry Allen, dated January 31, 2005, recommending acceptance of the report. (2) Special Report on Activating the New City Hall Public Spaces from the San José Arts Commission, dated January 2005.

Discussion: Deputy Director of the Office of Cultural Affairs Jerry Allen responded to questions from Council about proposed pilot project, art display selections, and security. City Attorney Rick Doyle responded to questions relating to free speech.

Council Member Cortese requested staff work with local non-profit and grassroots organizations who may desire to display artwork at the New City Hall before committing to any official bookings.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the report was accepted and authorization of the one-time use of the FY 2004-2005 Arts Venture Fund appropriation was approved, with Staff direction to work with non-profits and grassroots organizations who may desire to display artwork at the New City Hall before committing to any bookings. (10-0).

- 3.5 Acceptance of the staff report providing an update on the procurement for freestanding furniture at the New City Hall. CEQA: Civic Plaza Redevelopment Plan EIR, CEQA: Resolution No. 68905, PP98-03-072. (City Manager's Office/General Services)**

Documents Filed: Memorandum from Deputy City Manager Terry Roberts and Interim Director of General Services Jim McBride, dated February 24, 2005, recommending acceptance of the report.

Action: Upon motion by Council Member Williams, seconded by Council Member Cortese, and unanimously carried, the report was accepted. (10-0).

- 3.6 Report on RFP and adoption of a resolution authorizing the City Manager to negotiate an agreement with Nortel Networks Corporation for the purchase of a Converged Data Network and Telephony System in an amount not to exceed \$5,631,600 plus a 10% contingency (\$563,160), for the installation and one year managed services for a converged voice, video, and data network for the New City Hall and to present the final agreement to the City Council for approval on or before March 15, 2005. CEQA: Not a Project. (City Manager's Office/Information Technology/Finance/General Services)**

3.6 (Cont'd.)

Documents Filed: Supplemental Memorandum from Deputy City Manager Ed Shikada, dated February 24, 2005, recommending deferral of this item to the March 15, 2005 City Council meeting.

Action: This item was deferred to March 15, 2005.

3.7 Acceptance of the staff report providing an update on relocation services for the New City Hall. CEQA: Resolution No. 68905, PP98-03-072. (City Manager's Office) (Rules Committee referral 2/23/05)

Documents Filed: Memorandum from Deputy City Manager Terry Roberts and Interim Director of General Services Jim McBride, dated February 24, 2005, recommending acceptance of the report.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, the report was accepted. (10-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Public Hearing on an ordinance to amend Title 23 of the Municipal Code of the City of San José, to expand the boundary of the Downtown Sign Zone; modify the Downtown Sign Zone provisions to include regulations for Mixed-Use Development and modifications to the temporary Sign and 3D Sign Regulations; modify the Airport Sign Zone provisions to allow Neon signage and clarify regulations; include sign provisions for Live/Work uses; modify the skyline and rooftop sign provisions to apply Citywide; modify the commercial sign provisions to allow greater flexibility for two-story retail uses and to establish a minimum base height for detached signs; clarify public outreach sign allowances; clarify directory sign allowances for parking structures; and reorganize and reformat various sections along with other minor technical changes. CEQA: Exempt, PP05-040. (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: This item was deferred to March 15, 2005. (10-0).

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – February 10, 2005 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Report of February 10, 2005.

5.1 (Cont'd.)

- (a) City of San José's Youth Services Update and Overview. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated February 2, 2005, providing a status update on the City of San José's various Youth Services.

The Committee accepted the report.

- (b) Youth Commission Strategic Workplan. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated January 27, 2005, recommending the acceptance of the status report.

The Committee accepted the report.

- (c) Oral Petitions – Bill Chew spoke.
- (d) Adjournment
The meeting was adjourned at 2:50 p.m.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and unanimously carried, the All Children Achieve report and actions of February 10, 2005 were accepted. (10-0)

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – February 7, 2005 Council Member Campos, Chair

Documents Filed: The Building Better Transportation Committee report of February 7, 2005.

- (a) Expansion and Improvement of Transit and Transportation Systems
No items.
- (b) Traffic Relief/Safe Streets
No items.

6.1 (Cont'd.)

(c) Supporting Smart Growth

- (1) Report on Updates to City's Jobs, Housing and Transportation Policies to Support Economic Development in Downtown, North San José, and Transit Corridors. Attachment: Memorandum from Director of Transportation James R. Helmer, Director of Planning, Building and Code Enforcement Stephen M. Haase, Director of Economic Development Paul Krutko, and Deputy Executive Director of Redevelopment Agency John Weis, dated February 7, 2005, providing a replacement memorandum recommending acceptance of the report.

The Committee accepted the report with one member absent, and direction to staff to incorporate all the opinions voiced today into the next report that should come before Council in June 2005.

(d) Regional Relationships/Funding/Policy

- (1) Report on Proposed Legislation for Vehicle Registration Surcharge in Santa Clara County. Attachment: Memorandum from Director of Transportation James R. Helmer, dated January 28, 2005, recommending approval of support in concept for proposed state legislation calling for an annual Countywide Vehicle Registration Surcharge (VRS) to be committed to specific transportation improvements in Santa Clara County.

The Committee moved for approval of the concept of the legislation report and direction to staff to change the title from replace specific transportation improvements with various transportation categories and with the goal of achieving geographic equity, reimbursements to cities in advance, and some additional information on the VTA studies for litter, and to return to the Committee in March.

(e) Oral Petitions

There were none.

(f) Adjournment

The Committee was adjourned at 3:39 p.m.

Public Comments: Ross Signorino spoke on item 6.1(d), requesting clarification on an issue of possibly installing cameras at street intersections to enable law enforcement to witness drivers breaking traffic laws.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, and unanimously carried, the Building Better Transportation Committee report and actions of February 7, 2005 were accepted. (10-0).

ENVIRONMENTAL & UTILITY SERVICES

7.1 Adoption of a resolution:

- (a) Authorizing the City Manager to execute a First Amendment to the Memorandum of Agreement (MOA) for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program), which will extend the term of the MOA to March 10, 2006, and provide for an independent review by the Program of the MOA cost allocation formula and the term, scope, and cost of the Program MOA during fiscal year 2005-06, with no change in the cost to the City of participation in the Program; and
- (b) Authorizing the City representative of the Program Management Committee to approve a change in the Program contracting/fiscal agent from the Santa Clara Valley Water District to one of the thirteen other Program co-permittees.

CEQA: Not a Project. (Environmental Services)
(Referred from 2/8/05 – Item 2.3)

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated February 25, 2005, recommending adoption of the resolution. .

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Resolution No. 72557, entitled; “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program to Extend the Term of the Agreement for One Year and Provide for an Independent Review by the Program of the MOA Cost Allocation Formula and the Term, Scope, and Cost of the Program MOA During Fiscal Year 2005-2006 and Authorizing the City’s Representative to the Program Management Committee to Approve a Change in the Program Contracting/Fiscal Agent from the Santa Clara Valley Water District to One of the Thirteen Other Program Co-Permittees”, was adopted. (10-0).

Council Member Williams left Council Chambers for the day (excused absence).

AVIATION SERVICES

- 8.1 Adoption of a resolution approving a Minor Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to increase the estimated size of terminal building space needed to adequately accommodate projected passenger demand from a total of 1,075,000 square feet to 1,700,000 square feet of enclosed building space. **CEQA: Resolution Nos. 67380 and 71451, PP04-305. (Airport)**
(Deferred from 11/16/04 – Item 8.1(d), et al, and 1/25/05 – Item 8.1)

8.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Yeager, dated March 1, 2005, recommending the resolution. (2) Memorandum from City Attorney Rick Doyle, dated February 28, 2005, addressing questions raised by Citizens Against Airport Pollution (CAAP) in its January 24, 2005 letter to the Mayor and City Council regarding this matter. (3) Supplemental memorandum from Assistant to the City Manager Deanna J. Santana, dated February 23, 2005, providing an informational memorandum, dated January 28, 2005, providing information to the City Council of outreach to the Airport conducted relating to the proposed square footage increase to the Airport's terminal building space.

Discussion: Council Member Cortese asked staff to provide Council with information that was supplied to Southwest Airlines for clarification purposes.

Council Member LeZotte requested staff provide further information regarding the Automated People Mover (APM) and the costs of any tunneling structures to extend the APM from the Santa Clara Train Station.

Public Comments: Kenneth Hayes spoke in favor of the proposed amendments and Environmental Impact Report.

Jim Tucker, San José/Silicon Valley Chamber of Commerce, urged approval of the proposed actions.

William Garbett and Ed Blackman objected to the proposed amendments.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, Resolution No. 72558, entitled: "A Resolution of the Council of the City of San José Approving a Minor Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to Increase the Estimated Size of Terminal Building Space Needed to Adequately Accommodate Projected Passenger Demand from a Total of 1,075,000 Square Feet to 1,700,000 Square Feet", was adopted and Council approved a memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Yeager, dated March 1, 2005, recommending the City Council include the following direction to Airport Staff in the motion to approve Item 8.1 regarding a minor amendment to the Airport Master Plan to increase the estimated size of terminal building space: 1) Reaffirm the Council's policy that before the Council considers an amendment to the Municipal Code to allow the Airport to expand beyond 40 airline gates, the Administration must update its Master Plan demand forecasts and prepare, in turn, a supplemental or new Airport Master Plan EIR, (2) Recognize that the concept of "shared gates" is a separate and unrelated item from the issue of amending the Master Plan to increase the terminal square footage, A CEQA review would be required before the Council approves any expansion of the shared use gates concept to Council within the next 180 days prior to presenting the information technology procurement strategy for the North Concourse,

8.1 (Cont'd.)

Staff directed to do appropriate outreach to the community before the shared use concept is presented to Council, (3) When the City Council approves the development of new airport facilities, the City will require – as it did with the North Concourse – that compliance with the Municipal Codes provisions applicable to development have been achieved. This would include: a review to be conducted of the overall historical compliance of the potential airline or interested user(s) of proposed terminal facilities with the Airport Noise Control Program; A report containing updated activity levels including numbers of passengers, aircraft operations and fleet mix, cargo tonnage, Airport-based general aviation aircraft, on-Airport parking statistics, and a comparison of such activity levels to the 1997 Airport Master Plan forecast be presented to Council prior to the consideration of a new terminal building; That new terminal facilities shall only be constructed when the City has obtained and approves adequate written documentation which assures that the funding of the costs of development, maintenance, and operation of such facilities will be paid by the users of the facilities, with addition direction for Staff to provide Council with information that was supplied to Southwest Airlines for clarification purposes and to provide further information regarding the Automated People Mover (APM) and the costs of any tunneling structures to extend the APM from the Santa Clara Train Station. (9-0-1). Absent: Williams.

PUBLIC SAFETY SERVICES

Items 2.11 and 9.1 were heard together.

2.11 Adoption of Statements of Policy and City Council Questions related to the selection of a new Chief Information Officer and General Services Director as described in the memo, in compliance with City Charter Section 411.1. (Employee Services)

Documents Filed: (1) Memorandum from Council Member Cortese, dated March 1, 2005, recommending additional questions be posed to candidates for the Information Technology and General Services Director positions. (2) Supplemental memorandum from Director of Employee Services Mark Danaj, dated February 24, 2005, providing a replacement page for the original memorandum of February 9, 2005, Attachment I. (3) Memorandum from Director of Employee Services Mark Danaj, dated February 9, 2005, recommending adoption of the Statements of Policy and City Council Questions.

Discussion: Council Member Cortese requested his suggested questions listed within his memorandum, dated March 1, 2005, be included in question posed to the prospective candidates for the Chief Information Officer and General Services Director.

Council Member Reed asked staff to include the question, “How would you implement a high profit Information Technology project in a large-scale atmosphere, such as the New City Hall”.

2.11/9.1 (Cont'd.)

Action: The Statements of Policy and City Council Questions were adopted, as amended, by adding the following questions to be posed to candidates for the Chief Information Officer and General Services Director positions: 1) “What is your experience with the public bid process in California”; 2) “In light of recent events in the City of San José with respect to the converged network system, what are your thoughts on ethics in dealing with private sector parties on matters involving public dollars?”, 3) “How would you implement a high profit Information Technology project in a large-scale atmosphere, such as the New City Hall”, and lastly to include within the General Services Statement of Policy, under Council Policy Proposed Broad Goals section, a bullet stating a goal that understands and integrates the City’s Environmental Procurement Policy (EPP), the Green Building Policy and the City’s Energy Policy and within the Information Technology Director section, to include a goal stating they understand and integrate the City’s EPP policy, and to also include as Question No. 8 for both applicants, “What is your knowledge of and how would you implement the EPP, Green Building and Energy Policies?” (9-0-1). Absent: Williams.

- 9.1 (a) Accept the Public Technology Institute (PTI) SWAT Team review of the City’s Computer-Aided Dispatch (CAD) System.**
(b) Accept staff’s response to the PTI report and recommendations.
(Police/Fire/Public Works/Information Technology)
(Deferred from 2/15/05 – Item 9.1)

Documents Filed: (1) memorandum from Police Chief Robert L. Davis, Fire Chief Jeffrey L. Clet, Director of Public Works Katy Allen, and Interim Director of Information Technology James R. Helmer, dated February 10, 2005, recommending acceptance of the Public Technology Institute (PTI) SWAT Team review of the City’s Computer-Aided Dispatch (CAD) System and staff’s response to the PTI report and recommendations. (2) Supplemental memorandum from City Manager Del D. Borgsdorf, dated February 14, 2005, transmitting the report on Computer-Aided Dispatch System. (3) Supplemental memorandum from Police Chief Robert L. Davis, Fire Chief Jeffrey L. Clet, Director of Public Works Katy Allen, and Interim Director of Information Technology James R. Helmer, dated February 25, 2005, providing information on the lessons learned from implementing the Intergraph Computer Aided Dispatch System (CAD) and actions moving forward.

Discussion: Council Member Reed requested staff bring back to Council a status report of when the majority of the September changes are in place within the system.

Council Member Campos asked staff to ensure outreach efforts are being conducted to inform people on how to use the City’s Intranet site, to communicate any errors they find within the proposed system and to inform Council of the performance of this site.

Public Comments: Linda Dittes spoke in favor of the CAD report project.

9.1 (Cont'd.)

Action: The Review and staff's response were accepted, and staff was directed to bring back to Council a status report when the majority of the September changes are in place. (9-0-1). Absent: Williams.

9.2 **Acceptance of the report related to the impact of cardroom gambling on crime in the City of San José for the period July 1, 2003 to June 30, 2004. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Police Chief Robert L. Davis, dated February 9, 2005, recommending acceptance of the report.

Public Comments: Jackie Rose expressed gratitude for the efforts made by the Police department.

Frederick S. Wyle, Federal Trustee of Garden City, commented on the decrease of criminal acts at Garden City.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the report was accepted. (10-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:38 p.m. to consider Item 10.1 in a Joint Session.

- 10.1 (a) Adoption of a resolution by the City Council restating the intent of the Council action of March 9, 2004 and setting the following policies in view of the California Domestic Partner Rights and Responsibilities Act, which became effective January 1, 2005:**
- (1) That the intent of the City Council action of March 9, 2004, was to allow City employees who enter into marriage, which are certified by the jurisdiction where the marriage was performed, to participate in the receipt of City of San José employee benefits on an equal basis without passing on the legality of same sex marriages in California.**
 - (2) That on May 18, 2004, the City Council approved the extension of health and dental insurance benefits to the children of domestic partners of City and Agency employees.**
 - (3) That the City of San José employees and their domestic partners who are members of a domestic partnership registered with the Secretary of State will be provided equal treatment with regard to City benefits, as is provided to married employees and their spouses.**
 - (4) That City of San José employees and their domestic partners who are not members of a domestic partnership registered with the Secretary of State, but who are registered with the City of San José will be provided equal treatment with regard to City benefits, as is provided to married employees and their spouses.**

- 10.1 (b) Adoption of a resolution by the Agency Board adopting the City Council's policy referred to above to apply to Agency employee benefits.
(City Attorney's Office)
(Rules Committee referral 2/23/05)**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated February 25, 2005, recommending adoption of the resolution.

Public Comments: William Garbett suggested the City provide benefits for domestic partner for single employees

Dan Hoffman stated the proposed employee benefits for same-sex marriages was unconstitutional.

Mark Trout expressed personal religious beliefs regarding same-sex marriages

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, Resolution No. 72559, entitled: "A Resolution of the Council of the City of San José Restating the Intent of the City Council Action of March 9, 2004 and Setting Forth Policies in View of the California Domestic Partner Rights and Responsibilities Act Which Became Effective on January 1, 2005" and Agency Resolution No. 5589 were adopted. (10-0).

The Redevelopment Agency Board portion of the meeting adjourned at 4:46 p.m.

OPEN FORUM—

- (1) Mark Trout expressed personal religious observations.
- (2) Ross Signorino mentioned the popularity of the HP Pavilion.

PUBLIC HEARINGS

[Heard by the City Council at 7:06 p.m. Mayor Gonzales absent (Excused).]

- 11.1 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 to A(PD) District to allow one existing and one new single-family attached residence on a 0.46 gross acre site, located at/on the southwest corner of Pine Avenue and Cottle Avenue (1260 Pine Avenue) (Fortune Fred and Cathleen, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC04-105 - District 6
(Continued from 2/15/05 – Item 11.3)**

11.1 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 24, 2005, recommending approval of the proposed rezoning. (2) Memorandum Secretary of the Planning Commission Stephen Haase, dated January 31, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-105, dated January 18, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on January 14, 2005, submitted by the City Clerk. (4) Proof of publication of Notice of Public Hearing, executed on February 6, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27367, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Pine Avenue and Cottle Avenue (1260 Pine Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (9-0). Absent: Gonzales.

11.2 **Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Pl.), from R-1-1 Residence Zoning District to R-1-8 Residence Zoning District, on a 0.23 gross acre site (Lin Mon F, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C04-079 - District 10
(Continued from 12/7/04 - Item 11.9 et al and 2/15/05 – Item 11.1)

Documents Filed: Memorandum from Council Member Pyle, dated February 28, 2005, recommending approval of the rezoning.

Public Comments: April Walsh spoke in favor of the proposed rezoning.

Jerri Arstengstall, VEP, requested traffic calming to be conducted on the proposed location to ensure traffic safety issue for pedestrians.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27368, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Place) to R-1-8 Residence Zoning District", was passed for publication. (9-0). Absent: Gonzales.

11.3 **Public Hearing on Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Residence Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of N. 6th Street and Younger Avenue (257 E. Younger Avenue) (Roy Family Partnership, Owner). CEQA: Resolution No. 65459.**

C04-102 – District 3

11.3 (Cont'd.)

Documents Filed: None.

Action: This item was continued to March 15, 2005.

11.4 **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow four affordable single-family attached residences and on-site parking and circulation on a 0.326 gross acre site, located at the southeast corner of North 13th Street and East Julian Street (288 N. 13th St.) (Silicon Valley Habitat for Humanity, Owner) SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC04-089 - District 3**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 9, 2005, recommending approval of the proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-089, dated January 28, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on July 16, 2004, submitted by the City Clerk.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27369, entitled: "An Ordinance of the San José Rezoning Certain Real Property Situated at the Southeast Corner of North 13th Street and East Julian Street (288 N. 13th St.) to A(PD) Planned Development Zoning District", was adopted. (9-0). Absent: Gonzales.

11.5 **Public Hearing on Conforming Prezoning from County to CP Commercial Pedestrian Zoning District on a 0.82 gross acre site, located at/on the west side of South White Road, between Milford Way and Story Road (1075 S. White Road) (John M. Powell, Owner). SNI: East Valley/ 680 Communities. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. C04-108 - District 5**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C04-108, dated February 4, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Revised Notice of Public Hearing, executed on February 18, 2005, submitted by the City Clerk.. (3) Proof of publication of Notice of Public Hearing, executed on February 4, 2005, submitted by the City Clerk (4) Proof of publication of Notice of Public Hearing, executed on February 20, 2005, submitted by the City Clerk.

11.5 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27370, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of South White Road, Between Milford Way and Story Road (1075 S. White Road) to CP Commercial Pedestrian Zoning District”, was passed for publication. (9-0). Absent: Gonzales.

11.6 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 Single-Family Zoning District to A(PD) Planned Development Zoning District to allow up to 9 single-family detached residences on a 1.17 gross acre site, located at/on the south side of Malone Road, approximately 240 feet northeasterly of Johnston Avenue (800 Malone Rd.) (Letcher Carol D., Owner). SNI: None. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1). PDC04-028 - District 6

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 24, 2005, recommending approval of the rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 9, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-028, dated February 1, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on January 28, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27371, entitled; “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Malone Road Approximately 240 Feet Northeasterly of Johnston Avenue (800 Malone Road) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0). Absent: Gonzales.

11.7 Public Hearing on and consideration of an ordinance on a Planned Development Rezoning from A Agricultural Zoning District to A(PD) Planned Development Zoning District to allow 2 single-family detached residences on a 89.3 gross acre site, located on the west side of McKean Road, approximately 4,000 feet northerly of Uvas Road (23735 McKean Road) (Young Patrick Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC04-057 - District 10

11.7 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 24, 2005, recommending approval of the rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated February 9, 2005, transmitting Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-057, dated January 20, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on January 14, 2005, submitted by the City Clerk. (4) Proof of publication of Notice of Public Hearing, executed on January 23, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27372, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated West Side of McKean Road, Approximately 4,000 Feet Northerly of Uvas Road (23735 McKean Road) to A(PD) Planned Development Zoning District", was passed for publication. (9-0). Absent: Gonzales.

OPEN FORUM

(1) David Bevins expressed concerns regarding the Downtown Convention Center business tactics.

ADJOURNMENT

The meeting of the Council of the City of San was adjourned at 7:16 p.m. in memory of: Leonard Richard "Red" Lamantia, a lifelong resident of San José, a farmer from Eergreen, and a very active volunteer in the San José community; In honor of Dr. Alexander "Sandy" Ellenberg, a surgeon who gave of himself for the betterment of the San José Community.

MINUTES OF THE CITY OF SAN JOSÉ/REDEVELOPMENT AGENCY BOARD

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 1, 2005

The Council of the City of San José convened in Joint Session with the Redevelopment Agency Board at 4:53 p.m. in City Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

- 8.1 (a) Adoption of a resolution by the City Council accepting the 33433 Summary Report and Re-Use Appraisal, and finding that the disposition of the Crescent Site, located at 93-99 South First Street and 17-31 West San Fernando Street (APN 259-40-064) to Wilcox Block, LLC, will assist in the elimination of blight, is consistent with the Pueblo Uno Redevelopment Project Area objectives, and that the consideration for the property is not less than the fair reuse value for the proposed uses, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).**
- (b) Adoption of a resolution by the Redevelopment Agency Board approving a DDA with Wilcox Block, LLC, and authorizing the Executive Director to execute the DDA and ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.**
- (c) Adoption of a resolution by the Redevelopment Agency Board approving additional revenue of \$200,000 to the Adopted 2004-2005 Capital Budget Other/Miscellaneous Revenue.**

CEQA: Resolution No. 71039.1, PP04-321 [MERGED]

Documents Filed: (1) Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated March 1, 2005, recommending adoption of the resolution. (2) Summary Report Pursuant to Section 33433 of the California Community Redevelopment Law on a Disposition and Development Agreement By and Between the Redevelopment Agency of the City of San José and Wilcox Block, LLC, A California Limited Liability Company.

Action: Resolution No. 72560, entitled: "A Resolution of the Council of the City of San José Accepting the 33433 Summary Report and Re-Use Appraisal and Making Certain Findings in Connection with the Disposition and Development Agreement with Wilcox Block, LLC, for the Crescent Site, Located at 93-99 South First Street and 17-31 West San Fernando Street", Agency Resolution No. 5586, and Agency Resolution No. 5587 adopted. (10-0).

- 8.2 (a) **Adoption of a resolution by the Redevelopment Agency Board approving an Amended and Restated Joint Exercise of Powers Agreement relating to the California Statewide Communities Development Authority, allowing the Agency to participate in the California Redevelopment Association/Education Revenue Augmentation Fund (CRA/ERAF) Loan Program.**
- (b) **Adoption of a resolution by the City Council reporting to the County Auditor the Agency's intent to fund its ERAF payment in the amount of \$18,626,954 with funds borrowed from the CRA/ERAF Loan Program.**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated March 1, 2005, recommending the City Council adopt the resolution and the Redevelopment Agency Board adopt the resolution. .

Action: Resolution No. 72561, entitled: "A Resolution of the Council of the City of San José Reporting to the Auditor of the County of Santa Clara that the Redevelopment Agency of the City of San José Intends to Fund the Educational Revenue Augmentation Fund (ERAF) Payment in the Amount of \$18,626,954, as Required by California Health and Safety Code Section 33681, with Funds Borrowed from the California Redevelopment Association ERAF Loan Program and Agency Resolution No. 5588 were adopted. (10-0).

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/3-1-05 Min.